IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8380 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SURENDRANAGAR DISTRICT PANCHAYAT - Petitioner(s)

Versus

MAGANBHAI MOHANBHAI & 1 - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1,2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 27/07/2005

ORAL JUDGMENT

1.0 The petitioner Panchayat has challenged the award dated 29.08.1997 passed by Labour Court, Surendranagar in

Recovery Application No.548 of 1992, whereby the said application was allowed.

2.0 The brief facts of the case are that the respondents herein were employed as daily wagers by the petitioner Panchayat. It is the case of the petitioner that the respondents were also given the benefits under the G.R. Dated 17.10.1988 and in spite of that they approached the Labour Court, Surendranagar by way of Recovery Application No.548 of 1992 claiming recovery of Rs.58,36/- on the ground that they were entitled to regular pay scale under the provisions of the said Govt. Resolution. The Labour Court, after hearing the parties, by impugned award allowed the said application. Hence, this petition.

3.0 Mr. H S Munshaw learned advocate for the petitioner has contended that the Labour Court has committed an error in granting the benefits of the Government Resolution dated 17.10.1988 to the respondents since there was no finding or adjudication by the competent authority that the respondents were entitled for the same. He has, therefore, submitted that the impugned award of the Labour Court is illegal and perverse and

deserves to be quashed and set aside.

4.0 Though served none appears on behalf of the respondents. I have heard learned counsel for the petitioner and perused the documents placed on record. The contention raised by Mr. Munshaw is required to be accepted since there was no adjudication by the competent authority that the respondents were entitled for the benefits under the Government Resolution dated 17.10.1988. In my opinion, the Labour Court has erred in arriving at the conclusion that the respondents were entitled for the benefits under the said Government Resolution. Hence, the impugned award of the Labour Court is required to be quashed and set aside.

5.0 In the result, the petition is allowed. The impugned award dated 29.08.1997 passed by Labour Court, Surendranagar in Recovery Application No.548 of 1992 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

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